

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS)
FOR THE FIFTEENTH JUDICIAL CIRCUIT)

GREG DUCKWORTH,)
)
Plaintiff,)

Case No.: 2012-CP-26-09340)

vs.)

ORDER GRANTING DEFENDANTS')
MOTION FOR SUMMARY JUDGMENT)

BREN GIBSON,)
)
Defendant.)

GREG DUCKWORTH,)
)
Plaintiff,)

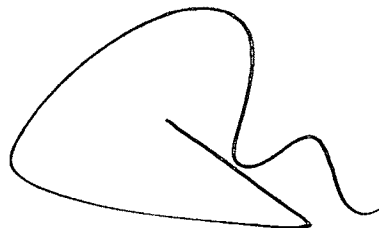
Case No.: 2012-CP-26-09339)

vs.)

CHARLES COLLINS,)
)
Defendant.)

This matter came before this Court upon Defendant Bren Gibson and Charles Collin's Motion for Summary Judgment ("Motion"). All parties were afforded an opportunity to be heard at a hearing held on March 3, 2015, and to submit deposition experts, which this Court has reviewed. Having reviewed the Motion, the Defendant's Memorandum of Law in Support of his Motion and other documents provided to this Court by counsel at the hearing and thereafter, this Court hereby makes the following findings of fact and conclusions of law.

This is a cause of action for defamation and other claims for intentional infliction of physical and emotional distress. At all times relevant to this cause of action, the Plaintiff, Greg Duckworth, shall be considered a "public figure" for purposes of analyzing and reviewing Plaintiff's defamation claims.



Plaintiff's claims arise out of two separate "letters to the editor," written by the Defendants and submitted to *The Sun News* newspaper ("Editorial Letter") located in Myrtle Beach, South Carolina. Bren Gibson, *Re-elect Edge, A Man On Integrity*, THE SUN NEWS, June 7, 2012; Chuck Collins, *Return Tracy Edge to State House*, THE SUN NEWS, June 9, 2012.

As a public figure, Plaintiff must show that Defendants acted with "constitutional malice" in writing the Editorial Letters, a heightened standard for defamation claims brought by public figures. See New York Times Co. v. Sullivan, 376 U.S. 254 (1964).

"Actual malice is a subjective standard testing the publisher's good faith belief in the truth of his or her statements." Peeler v. Spartan Radiocasting, Inc., 324 S.C. 261, 478 S.E.2d 282 (1996). The constitutional actual malice standard requires a public official to prove by clear and convincing evidence that the defamatory falsehood was made with the knowledge of its falsity or with reckless disregard for its truth. New York Times Co. v. Sullivan, *supra*; Botchie v. O'Dowd, 315 S.C. 126, 432 S.E.2d 458 (1993). However, a "reckless disregard" for the truth requires more than a departure from reasonably prudent conduct. "There must be sufficient evidence to permit the conclusion that the defendant *in fact entertained serious doubts as to the truth* of his publication." St. Amant v. Thompson, 390 U.S. 727, 731, 88 S. Ct. 1323, 1325, 20 L. Ed. 2d 262 (1968)(emphasis added). There must be evidence the defendant had a "*high degree of awareness of . . . probable falsity*." Garrison v. State of La., 379 U.S. 64, 75, 85 S. Ct. 209, 216, 13 L. Ed. 2d 125 (1964)(emphasis added).

Failure to investigate before publishing, even when a reasonably prudent person would have done so, is not sufficient to establish reckless disregard. See Hunt v. Liberty Lobby, 720 F.2d 631, 652 (11th Cir. 1983); Schultz v. Newsweek, Inc., 668 F.2d 911, 918 (6th Cir. 1982). However, actual malice may be present where one fails to investigate and there are obvious



reasons to doubt the veracity of the information. St. Amant, 390 U.S. at 733. “The actual malice standard is not satisfied merely through a showing of ill-will or malice in the ordinary sense of the term.” Harte-Hanks Commc'ns, Inc. v. Connaughton, 491 U.S. 657, 666, 109 S. Ct. 2678, 2685, 105 L. Ed. 2d 562 (1989).

Here, it is insufficient to show the Defendants made an editorial choice or simply failed to investigate or verify information. There must be at least evidence that the Defendants purposefully avoided the truth. The Editorial Letters in question were political speech, published in the context of a political campaign, where the Court finds freedom of speech to be particularly important. George v. Fabri, 345 S.C. 440, 455 (2001).

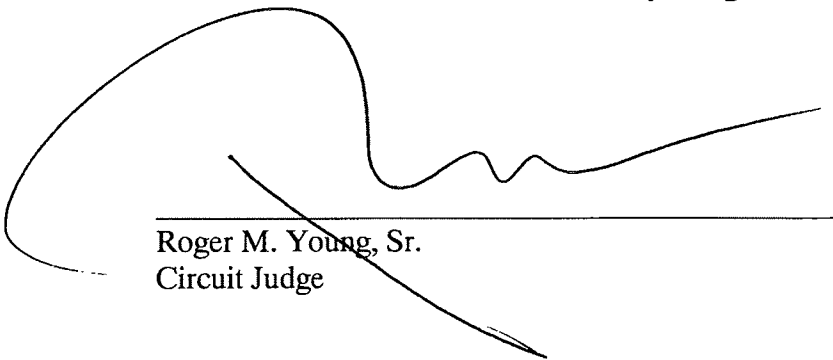
Here, after carefully reviewing the Editorial Letters, this Court finds they were not actionable defamatory publications. There is no showing of clear and convincing evidence that any of the statements made in the Editorial Letters were made with the knowledge that they were false or in reckless disregard of their truth. Indeed, one could make a reasonable argument that most of the statements contained in the letters were demonstrably true, and those that weren't fall within the category of political speech given special protection by the United States Constitution.

Therefore, I have thoroughly considered the motion, supporting and opposing material and arguments, and based on same grant Defendants' Motion for Summary Judgment.

IT IS THEREFORE ORDERED that Defendants' Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED!

March W, 2015
Charleston, South Carolina



Roger M. Young, Sr.
Circuit Judge